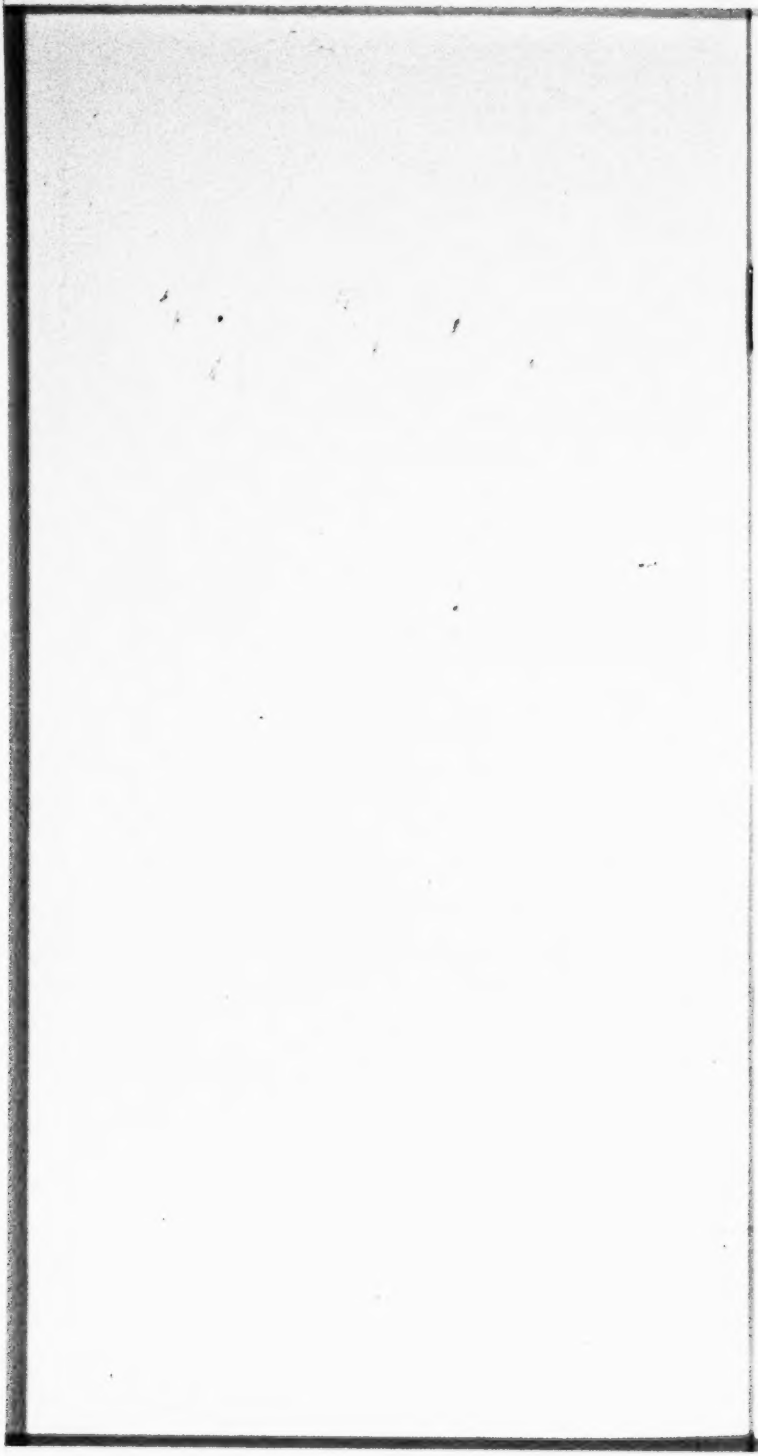


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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1973

No. 73-257

DR. REGINALD A. HAWKINS,
DR. JOHN P. STINSON
and DR. GEORGE T. NASH,

Petitioners,

v.

THE NORTH CAROLINA STATE BOARD
OF DENTAL EXAMINERS,

Respondent.

RESPONDENT'S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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The Respondent respectfully prays that the Petition for issuance of a Writ of Certiorari to review the Judgment of the Supreme Court of North Carolina filed herein be denied.

QUESTION PRESENTED

Whether Petitioners were deprived of due process and equal protection of the law in being singled out for disciplinary proceedings by the North Carolina State Board of Dental Examiners because of their race and

their efforts to use the Federal Courts to challenge the racially discriminatory practices of the Dental Examiners and other state agencies involved in these proceedings.

STATEMENT OF THE CASE

The North Carolina Court of Appeals has heretofore affirmed Opinions and Orders of the Superior Court of Mecklenburg County, North Carolina, wherein said Superior Court affirmed Orders of the North Carolina State Board of Dental Examiners suspending the licenses of the Petitioners to practice dentistry in the State of North Carolina as follows:

a. Dr. George T. Nash–18 months;
b. Dr. Reginald A. Hawkins–12 months;
c. Dr. John P. Stinson–60 days.

The North Carolina State Board of Dental Examiners is the sole state agency empowered by statutory law to invoke disciplinary proceedings relative to the revocation or suspension of licenses of dentists to practice in the State of North Carolina. The proceedings out of which this cause arises were instituted by the North Carolina State Board of Dental Examiners on July 29, 1967, and comprehensive hearings were thereafter conducted by the Board. The chronology of subsequent proceedings and appellant reviews is concisely stated in the Opinion of the North Carolina Court of Appeals. (Petitioner's Appendix 193a)

Upon findings of fact made by the Board, the license suspensions to which reference is hereinabove made resulted as provided by the North Carolina General Statutes. As is noted in the Opinion of the North Carolina Court of Appeals, "Respondents do not contend that the findings of the Board are not supported by competent evidence". (Petitioner's Appendix 217a) The

sole thrust of the request for review contained in the Petition for Writ of Certiorari is directed to an allegation of racial discrimination which has absolutely no support in the record. Indeed, the Respondents were afforded the extraordinary benefit of a separate hearing in the North Carolina Trial Court for the sole purpose of presenting evidence that might support claims of racial discrimination. As is reflected by the Order of the Superior Court entered October 21, 1971, Respondents failed to produce any evidence of the racial discrimination which they had alleged. (Petitioner's Appendix 168a)

The total evidentuary record has been comprehensively reviewed and examined by the North Carolina State Court of Appeals and all prior proceedings by the Board and by the Superior Court duly affirmed. The North Carolina Supreme Court refused to further review the matter.

REASONS FOR DENYING THE PETITION FOR WRIT OF CERTIORARI

NO SELECTIVE PROSECUTION WAS EMPLOYED AND PETITIONERS WERE AFFORDED A COMPLETELY FAIR AND IMPARTIAL HEARING, WITHOUT REGARD TO RACE OR OTHER EXTRANEOUS CONSIDERATIONS.

Of grave and immediate concern is the fact that the Petition for Writ of Certiorari filed by Petitioners is replete with erroneous and untruthful statements and statements totally unsupported by any evidence of record. For the comprehensive truth of matters here involved, the Court is urged to carefully review the Opinion of the North Carolina Court of Appeals (Petitioner's Appendix 193a) in comparison with the rather reckless statements and fabrications asserted by Peti-

tioners. It becomes immediately obvious that the sole criteria upon which Petitioners base their arguments for review upon a Writ of Certiorari is an *assumption* that racial discrimination had to exist by virtue of the simple fact that all members of the North Carolina State Board of Dental Examiners were white and all of the Respondents were black. No better rejoinder to such a tenuous assertion may be formulated than that stated in the Opinion of the North Carolina Court of Appeals: "We are not willing, as Respondents apparently would have us do, to say that a mere allegation and statement that prejudice exists is sufficient proof that the proceedings were conducted with a lack of impartiality and fairness. In their Brief, Respondents point to no evidence in the record indicating bias or partiality, nor does our study of the record reveal any."

The North Carolina State Board of Dental Examiners respectfully submits that every effort was made to assure Petitioners a totally fair and impartial proceeding and to assure that their rights were fully protected in every instance. This Respondent relies fully upon the comprehensive Opinion of the North Carolina Court of Appeals and the accuracy of the history of these proceedings as recited therein.

Petitioners claim that the deck was stacked against them in these proceedings. If anything, the deck was stacked in their favor solely by virtue of their race, in consequence of which they were allowed extraordinary latitude and considerations in every respect.

CONCLUSION

Upon the basis of the accurately stated matters set forth in the Opinion of the North Carolina Court of Appeals the Petitioner's Application for issuance of a Writ of Certiorari to review the Decision of the North Carolina Supreme Court should be denied. The jurisdiction of the United States Supreme Court should not be invoked upon the basis of the innuendoes, half-truths, and non-truths recited in the Petition.

Respectfully submitted,

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